

सं० ओ०वि०/हिसार/26-87/18827.—चूंकि हरियाणा के राज्यपाल की राय है कि 1. उप-कुलपति, हरियाणा कृषि विश्वविद्यालय, हिसार, 2. प्रोफेसर एण्ड हेड, डिपार्टमेंट ऑफ एग्रीकल्चर इकनोमिक्स, हरियाणा कृषि विश्वविद्यालय, हिसार के श्रमिक श्रीमती उषारानी, धर्मपत्नी श्री तिलक राज द्वारा मजदूर एकता यूनियन, नामोरी गेट, हिसार तथा उसके प्रबन्धकों के मध्य इस में इसके बाद लिखित मामले में कोई औद्योगिक विवाद है ;

और चूंकि हरियाणा के राज्यपाल विवाद को न्यायनिर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं ;

इसलिए, अब, औद्योगिक विवाद अधिनियम, 1947, की धारा 10 की उपधारा (1) के खण्ड (ग) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुये हरियाणा के राज्यपाल इसके द्वारा सरकारी अधिसूचना सं० 9641-1 श्रम-78/32573, दिनांक 6 नवम्बर, 1970, के साथ गठित सरकारी अधिसूचना की धारा 7 के अधीन गठित श्रम न्यायालय, रोहतक, को विवादग्रस्त या उससे सुसंगत या उससे सम्बन्धित नीचे लिखा मामला न्यायनिर्णय एवं पचाट तीन मास में देने हेतु निर्दिष्ट करते हैं जो कि उक्त प्रबन्धकों तथा श्रमिक के बीच या तो विवादग्रस्त मामला है या उक्त विवाद से सुसंगत अथवा सम्बन्धित मामला है :—

क्या श्री उषारानी स्टैंटों टाईपिस्ट ने स्वयं नौकरी छोड़ी है ? या उस की सेवा समाप्त की गई है ? इस बिन्दु पर निर्णय के फलस्वरूप वह किस राहत की हकदार है ?

सं० ओ० वि०/एफ०डी०/114-87/18835.—चूंकि हरियाणा के राज्यपाल की राय है कि में० फरीदाबाद पावर लूम ओनर्स एसोसिएशन लि०, प्लॉट नं० 10 तथा 11, सेक्टर 24, फरीदाबाद, के श्रमिक श्री चिरंजी लाल मार्फत सी० आई० टी० यू० 2/7, गोपी कालोनी, पुराना फरीदाबाद तथा उसके प्रबन्धकों के मध्य इसमें इसके बाद लिखित मामले के सम्बन्ध में कोई औद्योगिक विवाद है ;

और चूंकि हरियाणा के राज्यपाल विवाद को न्यायनिर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं ;

इसलिए, अब, औद्योगिक विवाद अधिनियम, 1947 की धारा 10 की उपधारा (1) के खण्ड (घ) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुए हरियाणा के राज्यपाल इसके द्वारा उक्त अधिनियम, की धारा 7क के अधीन गठित औद्योगिक अधिकरण, हरियाणा, फरीदाबाद को नीचे विनिर्दिष्ट मामले जो कि उक्त प्रबन्धकों तथा श्रमिकों के बीच या तो विवादग्रस्त मामला/मामले है अथवा विवाद से सुसंगत या सम्बन्धित मामला/मामले है न्यायनिर्णय एवं पचाट तीन मास में देने हेतु निर्दिष्ट करते हैं :—

क्या श्री चिरंजी लाल की सेवाओं का समापन न्यायोचित तथा ठीक है ? यदि नहीं, तो वह किस राहत का हकदार है ?

भार० एस० अग्रवाल,
उप-सचिव, हरियाणा सरकार,
श्रम विभाग।

LABOUR DEPARTMENT

The 6th May, 1987

No. 9/1/87-6Lab./2551.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the Management of (i) Deputy Commissioner, Ambala City (ii) Administrator, Municipality, Shahzadpur (Ambala)

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Ref. No. 289 of 1985.

SHRI SUBHASH CHAND C/O SHRI RAJESHWAR NATH, TIMBER MARKET, AMBALA CANTT
AND THE MANAGEMENT OF THE (i) DEPUTY COMMISSIONER, AMBALA CITY. (ii)
ADMINISTRATOR, MUNICIPALITY, SHAHZADPUR (AMBALA)

Present : Shri Rajeshwar Nath, for the workman.

Shri S. Bindra, for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of its power conferred,—vide clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Subhash Chand and Administrator, Municipality, Shahzadpur etc. to this Court. The terms of the reference are as under :—

“Whether termination of services of Shri Subhash Chand, workman is just and correct, if not, to what relief is he entitled ?”

Workman through his demand notice, dated 8th July, 1985 alleged that he joined services of respondent management as an Octroi Moharar on 12th July, 1982. His services were terminated on 14th June, 1985 in violation of provisions of section 25 (F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that the reference is bad for non-joinder of necessary parties. Workman joined service of the respondent-management on daily wages, so there was no necessity of complying with the provisions of section 25 (F) of Industrial Disputes Act. Before terminating the services of the workman, it was prayed that the claim of the workman be rejected.

Workman filed replication through which he reiterated his own claim.

On the pleadings of the parties, the following issues were framed :

Issues—

- (1) Whether termination of services of workman is unjust and illegal, if so its effect ? OPW
- (2) Whether reference is bad for mis-joinder of necessary parties, if so its effect ?
- (3) Relief.

I have heard Authorised Representatives of the parties and have perused the oral and documentary evidence placed on the file. My issuewise findings are as under :

Issue No. 1—

In support of this issue, workman examined himself as AW-1 he stated that he joined service of respondent, management on 12th July, 1982 as an Octroi Moharar and his services were terminated on 16th June, 1985 without issuing any notice and without making payment of retrenchment compensation. In cross-examination he admitted that he was appointed directly. No letter of appointment was issued to him. At present he is working in R.M.I. at Rajpura and has been receiving Rs. 425 since 1st August, 1985.

From the side of respondent-management Shri Bali Ram, Secretary, Municipality, Shahzadpur appeared who stated that workman was appointed on daily wages. Deputy Commissioner, Ambala made recruitment of regular employees in place of workman, so services of workman Subhash Chand were terminated. Before terminating service of Shri Subhash Chand no notice and no Retrenchment compensation was given or paid to him.

In view of the above evidence it is proved that Subhash Chand was employed directly in other words without sponsoring his name by the employment Exchange or neither through advertisement in daily paper etc. Secondly ; he was appointed on daily wages. Thirdly ; before terminating his services no notice was given to him nor any pay, in lieu of, notice period was paid to him. Even Retrenchment compensation was also not paid to the workman. Shri Subhash Chand joined service of respondent-management on 12th July, 19 82. He remained in service of respondent up to 16th June, 1985 which means that workman Subhash Chand remained in the job of respondent-management more than 240 days. Before terminating his services it was incumbent upon the respondent-management to either have issued notice to shri Subhash Chand or one month pay, in lieu of notice period should have been paid to him and thirdly the retrenchment compensation must have also been paid to the workman but there is no compliance of the provisions of section 25 (F) of Industrial Disputes Act, 1947.

MW-1 Shri Bali Ram admitted that on the arrival of regular candidates from the office of Deputy Commissioner, Ambala services of workman were terminated. There is no evidence on the file whether Deputy Commissioner, Ambala invited candidates to recruit in place of workman from Employment Exchange or he got published vacancy in question regarding recruitment in daily newspaper. There is no evidence on the file whether name of the workman was sponsored by Employment Exchange or not whether workman applied for this post on regular basis or not. But it is admitted fact that on the arrival of regular candidates from the office of Deputy Commissioner, Ambala services of workman were terminated. On this point there is clear law of own Hon'ble High Court which has been laid down in a case titled Nawanshar Central Cooperative Bank Ltd. and Labour Court in 1980 page 57 FJR page 206. In which it was observed that a workman who has been retrenched by the Employer and who offers himself for re-employment for a similar post, shall have preference over other persons. Section 25 (H) of Industrial Disputes Act, 1947 is widely worded. It does not say that the section will be applicable if the employer wants to employ a workman on the same post from which the employee has been retrenched. It is wide enough to cover the case of a retrenched employee who has been recruited for a specific period on an *ad hoc* basis. In those circumstances it was observed that the petitioner is entitled to the post of the Clerk in preference to the other candidates.

Similarly, in the present case at the time of recruiting regular employees the claim of the present workman was superior because he had worked for three years on this post and had an experience. But the Deputy Commissioner did not give any preference to the workman and preferred to recruit new person in his place.

In view of my above discussions due to non-complying of provisions of sanction 25 (F) of Industrial Disputes Act, 1947 termination of workman is illegal and unjust. Non-prefering the workman at the time of regular recruitment of employee in place of the workman is also illegal and unjust so workman is entitled to reinstatement from 16th June, 1985. Workman stated that he has been working in R.M.I. since 18th August, 1985 and has been receiving Rs. 425 P.M. is not entitled to back wages. Nor the workman claimed back wages in his statement when he appeared as AW-1, so this issue is decided, in favour of, workman against the management.

Issue No. 2—

Messrs Administrator, Municipality, Shahzadpur and Deputy Commissioner, Ambala have been impleaded party to this litigation, so the reference is proper for joining the proper parties. Administrator, Municipality, Shahzadpur had been working under the control of Deputy Commissioner, Ambala and in fact Deputy Commissioner, Ambala is the appointing authority of the clauses III and IV employees of the Municipality. So the demand notice served upon Deputy Commissioner, Ambala is proper and there was no necessity to issue a separate demand notice and to get it served upon Administrator, Municipality, Shahzadpur, so this issue is decided, in favour of, workman against the management.

Issue No. 3—

For the foregoing reasons on the basis of my issue-wise findings, I hold that workman is entitled to reinstatement without back wages, so I pass award regarding the dispute in hand accordingly.

Dated, the 10th February, 1987.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endst. No. 322, dated 10th February, 1987.

Forwarded (four copies) to the Financial Commissioner & Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of Industrial Disputes Act, 1947.

V.P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

KULWANT SINGH,
Secretary to Government, Haryana,
Labour and Employment Department.

श्रम विभाग

आदेश

दिनांक 14 मई, 1987

सं० ओ.वि./हिसार/36-87/18781.—चूंकि हरियाणा के राज्यपाल की राय है कि 1. प्रबन्धक निदेशक, हरियाणा राज्य लघु सिंचाई एवं ट्यूबवैल निगम लि०, चण्डीगढ़, 2. कार्यकारी अभियन्ता, हरियाणा राज्य लघु सिंचाई एवं ट्यूबवैल निगम लि०, टोहाना लाईनिंग डिविजन नं० 2, हिसार, 3. एस.डी.ओ, हरियाणा राज्य लघु सिंचाई एवं ट्यूबवैल निगम लि०, टोहाना डिविजन नं० 4, हिसार, के श्रमिक श्री गंगा पुत्र श्री चन्द द्वारा मजदूर एकता यूनियन नागोरी गेट हिसार तथा उसके प्रबन्धकों के बीच इसमें इसके बाद लिखित मामलों में कोई औद्योगिक विवाद है;

और चूंकि हरियाणा के राज्यपाल विवाद को न्यायनिर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं;

इसलिए, श्रम, औद्योगिक विवाद अधिनियम, 1947, की धारा 10 की उपधारा (1) के खंड (ग) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुये हरियाणा के राज्यपाल इसके द्वारा सरकारी अधिसूचना सं० 9641-1-श्रम-78/32573, दिनांक 6 नवम्बर, 1970, के साथ गठित सरकारी प्रतिनियम की धारा 7 के अधीन गठित श्रम न्यायालय, रोहतक को विवादग्रस्त या उससे सुसंगत या उससे सम्बन्धित नीचे लिखा मामला न्यायनिर्णय एवं पंचाट तीन मास में देन हेतु निर्दिष्ट करते हैं जो कि उक्त प्रबन्धकों तथा श्रमिक के बीच या तो विवादग्रस्त मामला है या उक्त विवाद से सुसंगत अथवा सम्बन्धित है:—

क्या श्री गंगा, चौकीदार की सेवाओं का समापन न्यायोचित तथा ठीक है ? यदि नहीं, तो वह किस राहत का हक्कादार है ?

आर० एस० अग्रवाल,
उप सचिव, हरियाणा सरकार,
श्रम विभाग।